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FM AMEMBASSY KATHMANDU
TO RUEHC/SECSTATE WASHDC IMMEDIATE 4888
INFO RUEHB/AMEMBASSY BEIJING PRIORITY 5342
RUEHLM/AMEMBASSY COLOMBO PRIORITY 5639
RUEHKA/AMEMBASSY DHAKA PRIORITY 0830
RUEHIL/AMEMBASSY ISLAMABAD PRIORITY 3648
RUEHLO/AMEMBASSY LONDON PRIORITY 4971
RUEHNE/AMEMBASSY NEW DELHI PRIORITY 0962
RUEHCI/AMCONSUL KOLKATA PRIORITY 3105
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RUEAAIA/CIA WASHDC PRIORITY
RHEHNSC/NSC WASHDC PRIORITY

C O N F I D E N T I A L SECTION 01 OF 04 KATHMANDU 000327

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E.O. 12958: DECL: 02/08/2017

TAGS: PREL PGOV PHUM PTER NP

SUBJECT: NEPAL: OHCHR WORRIED ABOUT TERAI UNREST

REF: KATHMANDU 326

Classified By: Ambassador James F. Moriarty. Reasons 1.4 (b/d).

Summary

¶1. (C) In a February 6 briefing, Country Representative for the UN Office of the High Commissioner for Human Rights (OHCHR) Lena Sundh told Chiefs of Mission that OHCHR worried about the growing violence in the Terai. OHCHR officers were worried about the actions of the Nepal Police and the Armed Police Force (APF) during the demonstrations and complained that the Government of Nepal (GON) had failed to provide direction to the police. Sundh expressed concern about the treatment of human rights activists and journalists by the protestors. Sundh believed communal violence could grow in the coming days if the GON did not begin a dialogue with Madhesi rights groups immediately.

OHCHR Concerned About Growing Violence in the Terai

¶2. (C) At a February 6 meeting, Country Representative for the UN Office of the High Commissioner for Human Rights (OHCHR) Lena Sundh briefed Chiefs of Mission, including the Ambassador, about the current situation in the Terai. Sundh stated that, although OHCHR had collected considerable information about the unrest in the Terai, it was not ready to issue a formal report yet. However, OHCHR wanted to take the opportunity to share what it knew with the international community. Sandra Beidas, Chief Protection Officer at OHCHR, stressed that the work OHCHR was doing in the Terai tracked with the work it had already been engaged in nationwide regarding inclusion and representation of socially excluded groups.

OHCHR's Objectives in the Terai

¶3. (C) Beidas noted that OHCHR had four main objectives in the Terai. First, OHCHR was assessing the nature of the demonstrations and the police response. Second, OHCHR was attempting to defuse the tension and prevent violence and abuses through an advocacy campaign. Third, it was investigating the circumstances surrounding alleged abuses in

order to place responsibility on the guilty parties, including investigating cases of arrest. Fourth, it was gathering information to understand the direct and indirect causes of the violence. Beidas said that OHCHR had been shocked by the 20 deaths that had occurred in the protests, 13 to 16 of which were a result of police action. (Note: As of February 8, the death toll during the Terai unrest had risen to 27. End note.)

Nepalgunj - the Precursor of the Current Unrest

¶14. (C) According to Andrew MacGregor, a Protection Officer based in the western Terai city of Nepalgunj, the West, Mid-West and Far-West Development Regions have been relatively quiet during the current unrest. He added, however, that the December 26 protests in Nepalgunj, which lasted several days, had been an eye-opener for OHCHR about the underlying problems in the Terai. When large groups of Pahadis (people from hill district origins) and Madhesis (people from the Terai) gathered in the city during the protests, the police were completely unprepared. The primary objective of the police had been to keep the groups apart, but once the situation got out of hand, the police stood by and allowed Pahadi demonstrators to engage in large-scale destruction of Madhesi businesses. The GON had then imposed a curfew on Nepalgunj, but it had been ineffectively enforced. (Note: The Nepal Army formerly enforced curfews but, under the November 2006 Comprehensive Peace Agreement, was no longer permitted to continue in that role. The Nepal Police had no experience. End Note.) MacGregor stated that it was not until the Maoists took a visible hand in

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controlling the crowds that law and order was restored.

...And Ready to Blow Up Again

¶15. (C) MacGregor said that one protestor had been killed in the Nepalgunj protests. A medical investigation indicated that the person had been shot in the head from close range. The Nepal Police had conducted an internal investigation, cleared the officer allegedly involved, and transferred him to another post immediately. The police considered the case closed. MacGregor noted that small incidents of violence between Pahadis and Madhesis had continued, although the situation remained relatively peaceful. He described the area around Nepalgunj as "ready to blow up at any time." Sundh called the Nepalgunj demonstrations a wake-up call for the entire international community.

Eastern Terai - Two Types of Violence

¶16. (C) Frederick Rawski, OHCHR Human Rights Officer for the eastern region, based in Biratnagar, spoke to the group about the ongoing unrest in the eastern Terai. Rawski explained that OHCHR had a presence in Lahan, Siraha, Inaruwa, Biratnagar, and Itahari, among other places. He said the current batch of unrest began with the shooting death of Madhesi protestor Ramesh Mahato by the Maoist People's Liberation Army protective detail. There had been continuous large demonstrations in the eastern region and excessive responses by the police, leading to the deaths and injuries of many protestors. Rawski described two types of violence in the east, violence between the Madhesi protestors and the Government of Nepal (usually against the police, but frequently including destruction of government property) and violence between the Madhesis and the Pahadis in the region.

Police Response Excessive

¶17. (C) Rawski said that excessive response by the police was a continuing problem in the Terai unrest. He said that the

police were under great pressure from the Home Ministry to protect government buildings and infrastructure at any cost. This directive, combined with a lack of clear orders from the Home Ministry or the police leadership about enforcement of law and order, created a situation, according to Rawski, where the police felt lethal force was authorized for protection of infrastructure, and not just for protection of their own lives. Rawski told of many situations where the police stood by and allowed the protests to get out of hand because of a lack of orders from the top, and only intervened when the protests threatened their own safety or government buildings. He also said that a lack of coordination between the Nepal Police and the Armed Police Force (APF) exacerbated the problems.

Communal Violence Could Spread

¶8. (C) Rawski said that there was still significant Madhesi-Pahadi violence happening across the eastern Terai. The number of people injured in the unrest was unsettling, many had been injured by knife and sword wounds, and the hospitals were filling quickly, some with serious injuries. As more of this type of communal violence occurred, more and more attacks were out of revenge or retribution and not based on any political demands. A group of Pahadis would attack a group of Madhesis one day, and the next day the group of Madhesis would burn down the houses of Pahadis, and so on. Sundh worried that communal violence between Pahadis and Madhesis could spiral out of control if a political solution to the demands of the Madhesi protestors was not found soon.

Central Terai - Situation Worsening

¶9. (C) According to Johan Olhagen, Head of the OHCHR

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Kathmandu Regional Office, the situation in the central Terai is also very bad. Olhagen had recently returned from a trip to Janakpur, Gaur, Birgunj, and other towns, to see what the situation was like there. Olhagen said that the ongoing situation made it nearly impossible to investigate current human rights abuses, so the bulk of the work of the OHCHR in the central region was on prevention. Olhagen said that the Nepal Police and the Chief District Officers (CDOs) had been cooperative in all of the OHCHR investigations. The APF had not been as cooperative. Olhagen complained that the APF was behaving like a paramilitary force facing combatants; at one point Olhagen had seen APF officers lying prone on their bellies facing a group of protestors, firing live ammunition into the crowd.

No Control Over Protests

¶10. (C) Olhagen said that most protestors in the central Terai were young men in their early- to mid-20s. FM radio stations had played a huge role in the mobilization of people for the demonstrations. Calls would go out in the morning for protestors to gather in a certain spot, and by afternoon, thousands had gathered to demonstrate. Olhagen stressed that the Madhesi People's Rights Forum (MPRF) was not in control of all the protests, and this allowed other groups (the Maoist-splinter Janatantrik Terai Mukti Morcha (JTMM), Hindu fundamentalists, and royalists, among others) to infiltrate the demonstrations and instigate violence for their own ends.

Some locals had taken the opportunity of large-scale protests to clean-up their cities. In Biratnagar, locals burned some local brothels because they did not want prostitution in their city and knew they could get away with it in the current environment.

Police Need Effective Leadership

¶11. (C) All the OHCHR staff complained that the police forces (the Nepal Police and the APF) lacked effective and clear leadership, and that this had led to many of the problems during the current unrest. Olhagen said that, in most cases, the Home Ministry ordered the CDOs to protect government infrastructure. The CDOs then passed this order to the Nepal Police and the APF, both of which were under separate commands, and did not even work on the same radio frequency. The police then gave various commands to their officers in the field, who executed them as they saw fit. The lack of clear command and control led to excessive use of force in many situations. Furthermore, the police lacked rubber bullets and other supplies necessary to control crowds effectively.

Police Not Allowed to Conduct Investigations Involving Maoists

¶12. (C) Olhagen stressed that, three weeks after the killing of Mahato, there was still no police investigation into the incident. The Ambassador asked why the Maoists were being allowed to conduct their own internal investigation into the incident, but the police were not allowed to conduct one. Olhagen replied that the Maoist perpetrators had been badly beaten by locals after the shooting; they were in "protective custody" in the hospital, though they had not been charged with any crime. Rawski said this was an ongoing problem in the Terai; the Maoists were allowed to do whatever they wanted and the police were not allowed to engage in arrests or conduct investigations if the case involved a Maoist.

Concerns About Journalists and Human Rights Workers

¶13. (C) Sundh expressed serious concern over the maltreatment of journalists and human rights workers during the current unrest. Rawski added that the number of attacks by protestors against human rights workers and journalists had grown over the course of the uprising because the protestors did not want accurate reporting about the incidents. (Note:

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Others have suggested that protestors were angry because coverage of events in the Terai was not extensive enough. End note.) Many journalists in the region had been forced to hide in their homes, or the homes of friends, to avoid being injured or killed; this had affected the reporting on the unrest. Olhagen stated that many human rights workers in the central region would, for their own safety, take off their UN-provided jackets identifying them as human rights workers, only donning them when OHCHR was present, and immediately putting them in their pockets once OHCHR had departed.

Comment

¶14. (C) OHCHR continues to do good work in Nepal, including conducting investigations of alleged human rights abuses during the current unrest in the Terai. The Nepal Police and Armed Police Force lack leadership and have no doubt engaged in excessive use of force, but they have also faced widespread violence, with one policeman killed and several dozen injured in the course of the protests. As the National Human Rights Commission noted on February 7, the protests have not been peaceful. Sundh is right when she says that, unless a political solution is found soon to the demands of the Madhesi rights activists, communal violence could grow alarmingly. The Prime Minister's February 7 speech (reftel) may have been a step toward solving the issue, but only time will tell.

MORIARTY